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VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Rulemaking Proceeding for the Purpose of Promulgating a Regulation to Help Prevent the Potential for Misleading Advertisements by Prohibiting the Sale of Customer Data by Regulated Utilities Absent a Customer's Direct Consent (See Commission Order No. 2019-877)
Docket No. 2019-387-A

Dear Ms. Boyd:

Consistent with the oral remarks made during the virtual public hearing held on September 16, 2020, in this matter, the South Carolina Office of Regulatory Staff ("ORS") wishes to provide the following written comments to the red-lined draft of Proposed Regulation 103-823.2 that Public Service Commission staff provided to interested parties on September 15, 2020:

1. With respect to subsection A of Proposed Regulation 103-823.2, the definition of the term "Customer Data" in (A)(3) includes "personal identifying information" ("PII") and a definition of PII that differs from the new, separate definition for PII added subsequently to subsection (A). ORS recommends the definitions be consistent, if both are included.
2. ORS does not object to the definition of PII in the Regulation incorporating the definition of PII in S.C. Code § 39-1-90(D)(3) and/or § 16-13-510(D), but requests the definition for purposes of the Regulation also specifically include a current or former customer's name, account number, billing history, address, email address, telephone number, and fax number because these items are not completely covered by the definitions in sections 39-1-90(D)(3) and 16-13-510(D). For example, a person's current or former name and current or former address only constitute PII under section

16-13-510(D)’s definition if used in combination with other identifying information listed in that statutory section.

3. If the Commission completely separates the definition of PII from “Customer Data,” ORS requests other subsections of the Proposed Regulation that currently only mention the term “Customer Data” be updated to include PII. Among the subsections that may need to be updated are (A)(1), (A)(5), (B), (C)(1) through (4), (F)(2), (F)(3), (F)(3)(p), (G), (H)(2), and (J).
4. Finally, if PII remains part of the definition of “Customer Data,” ORS requests the following language be deleted from (C)(2): “or any other personal identifying information.” ORS’s concern is the language is unnecessary because (C)(2) already includes the term “Customer Data” and suggests a distinction between (C)(1) and (C)(2) that is not actually present.

ORS appreciates the opportunity to review the September 15, 2020 red-lined draft, which incorporates comments from the South Carolina of Department Consumer Affairs and the Duke Companies, and to provide these comments. ORS also thanks the Commission for its consideration of this matter.

Respectfully,

s/ Christopher M. Huber

Christopher M. Huber

cc: All Parties of Record (via e-mail)
David Butler, Esquire (via e-mail)